

"(4) may request the Administrator to provide the Ombudsman notification, within a specified period of time, of any action taken on a recommendation of the Ombudsman;

"(5) may request, and shall be granted by any Federal agency or department, assistance and information that the Ombudsman determines to be necessary to carry out this section;

"(6) may examine any record of, and enter and inspect without notice any property under the administrative jurisdiction of—

"(A) the Agency; or

"(B) any other Federal agency or department involved in a matter under the administrative jurisdiction of the Office of Solid Waste and Emergency Response of the Agency;

"(7) may—

"(A) issue a subpoena to compel any person to appear to give sworn testimony concerning, or to produce documentary or other evidence determined by the Ombudsman to be reasonable in scope and relevant to, an investigation by the Office; and

"(B) seek enforcement of a subpoena issued under subparagraph (A) in a court of competent jurisdiction;

"(8) may carry out and participate in, and cooperate with any person or agency involved in, any conference, inquiry on the record, public hearing on the record, meeting, or study that, as determined by the Ombudsman—

"(A) is material to an investigation conducted by the Ombudsman; or

"(B) may lead to an improvement in the performance of the functions of the Agency;

"(9) may administer oaths and hold hearings in connection with any matter under investigation by the Office;

"(10) may engage in alternative dispute resolution, mediation, or any other informal process that the Ombudsman determines to be appropriate to carry out this section;

"(11) may communicate with any person, including Members of Congress, the press, and any person that submits a complaint, grievance, or request for information under subsection (c)(1); and

"(12) shall administer a budget for the Office.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—The Ombudsman shall—

"(A)(i) appoint a Deputy Ombudsman for each region of the Agency; and

"(ii) hire such other assistants and employees as the Ombudsman determines to be necessary to carry out this section; and

"(B) supervise, evaluate, and carry out personnel actions (including hiring and dismissal) with respect to any employee of the Office.

"(2) DELEGATION OF AUTHORITY.—The Ombudsman may delegate to other employees of the Office any responsibility of the Ombudsman under this section except—

"(A) the power to delegate responsibility;

"(B) the power to issue subpoenas; and

"(C) the responsibility to make recommendations to the Administrator.

"(3) CONTACT INFORMATION.—The Ombudsman shall maintain, in each region of the Agency, a telephone number, facsimile number, electronic mail address, and post office address for the Ombudsman that are different from the numbers and addresses of the regional office of the Agency located in that region.

"(4) REPORTS.—The Ombudsman—

"(A) shall, at least annually, publish in the Federal Register and submit to the Administrator, the President, the Committee on Environment and Public Works of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report on the status of health and environmental concerns addressed in complaints and cases brought before the Ombudsman in the period of time covered by the report;

"(B) may issue reports, conclusions, or recommendations concerning any other matter under investigation by the Office;

"(C) shall solicit comments from the Agency concerning any matter under investigation by the Office; and

"(D) shall include any comments received by the Office in written reports, conclusions, and recommendations issued by the Office under this section.

"(f) PENALTIES.—An investigation conducted by the Ombudsman under this section constitutes—

"(1) a matter under section 1001 of title 18, United States Code; and

"(2) a proceeding under section 1505 of title 18, United States Code.

"(g) EMPLOYEE PROTECTION.—

"(1) IN GENERAL.—No employer may discharge any employee, or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment of the employee, because the employee (or any person acting at the request of the employee) complied with any provision of this section.

"(2) COMPLAINT.—Any employee that, in the opinion of the employee, is discharged or otherwise discriminated against by any person in violation of paragraph (1) may, not later than 180 days after the date on which the violation occurs, file a complaint in accordance with section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851).

"(h) APPLICABILITY.—

"(1) IN GENERAL.—This section—

"(A) does not limit any remedy or right of appeal; and

"(B) may be carried out notwithstanding any provision of law to the contrary that provides that an agency action is final, not reviewable, or not subject to appeal.

"(2) EFFECT ON PROCEDURES FOR GRIEVANCES, APPEALS, OR ADMINISTRATIVE MATTERS.—The establishment of the Office does not affect any procedure concerning grievances, appeals, or administrative matters under this Act or any other law (including regulations).

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) \$3,000,000 for each of fiscal years 2003 and 2004;

"(B) \$4,000,000 for each of fiscal years 2005 through 2008; and

"(C) \$5,000,000 for each of fiscal years 2009 through 2012.

"(2) SEPARATE LINE ITEM.—In submitting the annual budget for the Federal Government to Congress, the President shall include a separate line item for the funding for the Office."

Mr. REID. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be agreed to, the bill, as amended, be read three times, passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 606), as amended, was read the third time and passed.

#### AMENDING THE PUBLIC HEALTH SERVICE ACT WITH RESPECT TO SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES AND INDIANS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5738.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5738) to amend the Public Health Service Act with respect to special

diabetes programs for Type I diabetes and Indians.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid on the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 5738) was read the third time and passed.

Mr. REID. I also ask that any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ORDERS FOR WEDNESDAY, NOVEMBER 20, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until today, November 20, at 10 a.m.; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. There will be no rollcall votes today, or the rest of the year, we hope.

Again, Mr. President, before you bang the gavel, thank you very much for your patience and for waiting through all this for us.

The ACTING PRESIDENT pro tempore. It was my pleasure doing it.

#### ADJOURNMENT UNTIL 10 A.M. TODAY

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:45 a.m., adjourned until Wednesday, November 20, 2002, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate November 19, 2002:

##### DEPARTMENT OF JUSTICE

HUMBERTO S. GARCIA, OF PUERTO RICO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF PUERTO RICO FOR THE TERM OF FOUR YEARS, VICE DANIEL F. LOPEZ ROMO, RESIGNED.

LEONARDO M. RAPADAS, OF GUAM, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF THE GUAM AND CONCURRENTLY UNITED STATES ATTORNEY FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS FOR THE TERM OF FOUR YEARS, VICE K. WILLIAM O'CONNOR, RESIGNED.

##### FEDERAL COMMUNICATIONS COMMISSION

ELLEN L. WEINTRAUB, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A